

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

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In the Matter of)	
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CERTAIN OSCILLATING SPRINKLERS,)	Investigation No. 337-TA-448
SPRINKLER COMPONENTS, AND)	
NOZZLES)	
)	
_____)	

REQUEST FOR WRITTEN SUBMISSIONS ON REMEDY,
THE PUBLIC INTEREST, AND BONDING

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission is requesting briefing on remedy, the public interest, and bonding in the above-captioned investigation. The Commission previously found the only remaining respondent in the investigation to be in default.

FOR FURTHER INFORMATION CONTACT: Laurent de Winter, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-708-5452. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-Line) at <http://dockets.usitc.gov/eol.public>. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain oscillating sprinklers, sprinkler components, and nozzles, on February 9, 2001. 66 *Fed. Reg.* 9721.

On June 12, 2001, the Commission determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 7) finding respondent Watex International Co. Ltd., ("Watex") to be in default for claims pending against it relating to U.S. Letters Patent 5,645,218, ("the '218 patent") and U.S. Letters Patent 5,511,727 ("the '727 patent"). On October 1, 2001, complainant L.R. Nelson Corp. ("Nelson") filed a declaration seeking, pursuant to section 337(g)(1)

and rule 210.16(c)(1), entry of a limited exclusion order against Watex barring importation into the United States of Watex sprinklers infringing the claims in issue of the '218 and '727 patents. In its declaration, Nelson did not seek issuance of a cease and desist order against Watex.

On September 13, 2001, Nelson moved to withdraw all allegations related to U.S. Letters Patent 6,036,117 ("the '117 patent") from the investigation. On September 25, 2001, the ALJ issued an ID (Order No. 26) granting the motion to withdraw the allegations relating to the '117 patent, and on October 26, 2001, the Commission determined not to review that ID. This withdrawal terminated the investigation with respect to all respondents except Watex, which still has claims relating to the '218 and '727 patents pending against it.

Section 337 (g)(1), 19 U.S.C. § (g)(1), authorizes the Commission to order limited relief against a respondent found in default unless, after consideration of public interest factors, it finds that such relief should not issue. If the Commission decides to issue a limited exclusion order, it must consider what the amount of the bond should be during the Presidential review period.

In connection with the final disposition of this investigation, the only potential remedy is a limited exclusion order that would result in the exclusion of sprinklers manufactured by Watex from entry into the United States. Accordingly, the Commission is interested in receiving written submissions that address the scope of such an order. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, it should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates a remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider in this investigation include the effect that a limited exclusion order would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission issues a limited exclusion order, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

WRITTEN SUBMISSIONS: The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on remedy, the public interest, and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed limited exclusion orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than close of business on January 11, 2002. Reply submissions, if any, must be filed no later than the close of business on January 18, 2002. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and section 210.16 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.16.

By order of the Commission.

Donna R. Koehnke
Secretary

Issued: December 11, 2001